IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.N.KRISHNAN

FRIDAY, THE 2ND FEBRUARY 2007 / 13TH MAGHA 1928

WP(C).No. 2760 of 2007(C)

(R.C.8/04 OF LAND TRIBUNAL, OTTAPALAM IN O.S.76/95 OF SUB COURT, OTTAPPALAM.)

PETITIONERS:
----

1. **MATHEW, S/O.(LATE) THOMAS, MUNDATHOTTATHIL, AYIROR MURIYIL, AYIROOR VILLAGE, RANNI TALUK.**

2. **SOSAMMA, D/O.(LATE) THOMAS, MUNDATHOTTATHIL, AYIROOR MURIYIL, AYIROOR VILLAGE, RANNI TALUK.**

3. **ABRAHAM THOMAS, S/O.(LATE) THOMAS, MUNDATHOTTATHIL, AYIROOR MURIYIL, AYIROOR VILLAGE, RANNI TALUK. (PETITIONERS 1 AND 2 REPRESENTED BY THE THIRD PETITIONER POWER OF ATTORNEY HOLDER).**

BY ADV. SRI.K.JAJU BABU
SMT.M.U.VIJAYALAKSHMI
SRI.BRIJESH MOHAN
SRI.T.R.SADEESAN

RESPONDENTS:
----

1. **P.SHOUKKATHALI, H/O.FATHIMATH @ SUHARA, D/O.MUHAMMED (LATE) THUNIKACHAVADAM, PERINTHALMANNA AMSOM AND DESOM, PERINTHALMANNA.**

2. **IBRAHIM, S/O.KUNHIBAPPU MUSALIAR, (LATE) THOMAS, MUNDATHOTTATHIL, AYIROOR MURIYIL, AYIROOR VILLAGE, RANNI TALUK.**

3. **SAIFUNNISA, D/O.NABEESA UMMA, MUNDATHOTTATHIL, AYIROOR MURIYIL, AYIROOR VILLAGE, RANNI TALUK.**

4. ABDUL KHADER, S/O.NABEESA UMMA,
MUNDATHOTTATHIL, AYIROOR MURIYIL, AYIROOR VILLAGE,
RANNI TALUK.

5. ABDUL RAHIMAN, S/O.LATE NABEESA UMMA,
THENGIL HOUSE, PERADIYOOR, VILAYOOR,
OTTAPALAM TALUK.

6. MARIYA, D/O.LATE NABEESA UMMA,
THENGIL HOUSE, PERADIYOOR, VILAYOOR,
OTTAPALAM TALUK.

7. PATHUNNY, D/O.LATE NABEESA UMMA,
THENGIL HOUSE, PERADIYOOR, VILAYOOR,
OTTAPALAM TALUK.

8. PATHUMMA, D/O.MUHAMMED,
THENGIL HOUSE, PERADIYOOR, VILAYOOR,
OTTAPALAM TALUK.

9. MUHAMMED IBRAHIM, S/O.PATHUMMA,
THENGIL HOUSE, PERADIYOOR, VILAYOOR,
OTTAPALAM TALUK.

10. MUMTHAS, D/O.PATHUMMA, THENGIL HOUSE,
PERADIYOOR, VILAYOOR, OTTAPALAM TALUK.

11. SHAKEENA, D/O.PATHUMMA, THENGIL HOUSE,
PERADIYOOR, VILAYOOR, OTTAPALAM TALUK.

12. NOORJAHAN, D/O.PATHUMMA, THENGIL HOUSE,
PERADIYOOR, VILAYOOR, OTAPALAM TALUK.

13. KAMARUNNEESA, D/O. PATHUMMA, THENGIL
HOUSE, PERADIYOOR, VILAYOOR, OTTAPALAM TALUK.

14. RASIYA, D/O.PATHUMMA, THENGIL HOUSE,
PERADIYOOR, VILAYOOR, OTTAPALAM TALUK.

15. MAHARUNEESA, D/O.PATHUMMA,
THENGIL HOUSE, PERADIYOOR, VILAYOOR,
OTTAPALAM TALUK.

16. ASMABI, D/O.PATHUMMA, THENGIL HOUSE,
PERADIYOOR, VILAYOOR, OTTAPALAM TALUK.

17. RAHIMBALKEES, D/O.PATHUMMA,
THENGIL HOUSE, PERADIYOOR, VILAYOOR, OTTAPALAM TLK

18. BEEVIKUTTY UMMA, D/O.AVARANKUTTY,
THENGIL HOUSE, PERADIYOOR, VILAYOOR,
OTTAPALAM TALUK.

19. AYISHAKUTTY, D/O.AVARANKUTTY,
THENGIL HOUSE, PERADIYOOR, VILAYOOR,
OTTAPALAM TALUK.

20. P.SALEENA, D/O.P.ALIKUTTY,
SHABEER MANZHIL, HOSPITAL ROAD, PERINTHALMANNA.

21. SHAMNA, D/O.AVARANKUTTY,
THENGIL HOUSE, PERADIYOOR, VILAYOOR,
OTTAPALAM TALUK.

22. SHABEER, D/O.AVARANKUTTY,
THENGIL HOUSE, PERADIYOOR, VILAYOOR,
OTAPALAM TALUK.

23. MUHAMMED, SHAHIBA (MINOR), REP. BY
GURARDIAN P.SHOUKKATHALI, H/O FATHIMATH @ SUHARA,
D/O.MUHAMMED (LATE), THUNIKKACHAVADAM,
PERINTHALMANNA AMSOM AND DESOM, PERINTHALMANNA.

BY

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 02/02/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

M.N. KRISHNAN, J.

= = = = = = = = = = = = = = =

W.P.C. NO. 2760 OF 2007

= = = = = = = = = = = = = = =

Dated this the 2nd day of February, 2007.

J U D G M E N T

This writ petition is preferred against the order passed in I.A.5/06 in reference case No.8/04 pending before the Land Tribunal, Ottappalam. The prayer in the application is to call for the records of Ext.P4 order of the Land Tribunal, Ottappalam in SM No.201/83, 203/83, 204/83 and 225/83. Instead of considering that aspect the Tribunal went on to hold that the orders passed in the above said cases are void in the light of the judgment of this Court and therefore refrained from calling for the records in that case. When an application for calling the documents is filed and when it is seen that it has got some nexus with the matter has to be decided before the Tribunal, it is always desirable that the Tribunal calls for the records and then decide the matter after hearing both sides and also to consider the legality of the same at that stage and not at a stage where the party has simply requested for calling for the records. So it is a patent error and it has resulted in manifest injustice to the party and therefore the order under challenge is liable to be set aside. I

do not find any necessity to issue notice to the other side because I am of the view that even if other side enters appearance the illegality committed by the Tribunal needs correction. Therefore, the writ petition is allowed and the Land Tribunal, Ottappalam is directed to call for the records as prayed for in I.A.5/06.

2. It is made clear that after the production of the documents and while disposing of the case, the Tribunal is at liberty to consider the legality, the binding nature or otherwise of the order passed in those cases in order to answer the reference which is pending before the Tribunal.

The writ petition is disposed of accordingly.

M.N. Krishnan, Judge.

ul/-